

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

_____)	
AMERICA ONLINE, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-344
)	
CHRISTOPHER WILLIAM SMITH,)	
<u>et al.</u> ,)	
)	
Defendants.)	
_____)	

ORDER

This matter comes before the Court on Defendants' Motion to Transfer Venue to the District of Minnesota, pursuant to 28 U.S.C. § 1404(a). Plaintiff is a corporation that provides internet access and email services, as well as a number of other services, to customers throughout the world. In 2003, Plaintiff began looking for the source of hundreds of millions of unsolicited bulk email messages that were transmitted through Plaintiff's computer servers to Plaintiff's customers. Plaintiff filed the instant Complaint on March 29, 2005 alleging that Defendants transmitted the bulk email messages in violation of state and federal statutes.

The decision to transfer a matter to another district is committed to the discretion of the district court. 28 U.S.C. § 1404(a) (1993), In re Ralston Purina, 726 F.2d 1002, 1005 (4th Cir. 1984). In ruling on a motion to transfer venue under Section

1404(a), the Court must consider the convenience of the parties and witnesses and the interests of justice. 28 U.S.C. § 1404(a).

Defendants ask the Court to transfer this case, because many of their witnesses are Minnesota residents, much of Plaintiff's evidence is in the form of easily movable data and documents, and since Plaintiff is a large corporation it is easy for them to litigate anywhere in the country. The Court finds, however, that it is no more convenient to litigate in Minnesota than it is in Virginia, and if the Court transferred this case it would simply shift the inconvenience from the Defendants to the Plaintiff. Moreover, many of Plaintiff's witnesses are located in Virginia, the offenses occurred in Virginia, many of the causes of action are brought under Virginia law, and Plaintiff is entitled to some deference with respect to forum selection. Accordingly, it is hereby

ORDERED that Defendant's Motion to Transfer is DENIED.

/s/

CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
June 22, 2005